

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

v.

CIVIL ACTION NO. 3:20-cv-415-DPJ-FKB

REAL PROPERTY KNOWN AS
115 ROSEDOWNE BEND
MADISON, MISSISSIPPI 39110

DEFENDANT PROPERTY

UNITED STATES' MOTION TO STAY CASE

Plaintiff United States of America ("Government"), by and through its United States Attorney for the Southern District of Mississippi and the undersigned Assistant U.S. Attorney, moves to stay the instant civil forfeiture case, and, as a basis for the motion, would show the following:

On June 22, 2020, the Government commenced this civil forfeiture action upon filing a Verified Complaint [3], seeking the forfeiture of the above-captioned Defendants *in Rem* under 18 U.S.C. § 981(a)(1)(A) and (C) because it is involved in a transaction in violation of 18 U.S.C. §§ 1956 or 1957, and constitutes or is derived from proceeds traceable to a 'specified unlawful activity,' in this case, theft or bribery concerning programs receiving Federal funds, in violation of 18 U.S.C. § 666(a)(1)(A). On August 23, 2022, the Government filed its First Amended Verified Complaint [56], adding a violation of 18 U.S.C. § 1343 (wire fraud) and conspiracy to violation 18 U.S.C. §§ 666(a)(1)(A) and 1343 to the alleged "specified unlawful activity."

The Government also is conducting an investigation of a criminal matter which is ongoing and directly related to the instant civil forfeiture action. The facts and the parties of the civil case and criminal matter are nearly identical. Accordingly, under 18 U.S.C. § 981(g)(1), the Government requests a stay of this civil forfeiture action on the grounds that continuing the

civil forfeiture action, and participating in civil discovery, will adversely affect the ability of the Government to conduct and complete the related criminal investigation.¹

The previously entered an Order [5] staying this case, but that stay was lifted on January 27, 2021, to deal with the Motion to Dismiss filed by Claimants Kristen DiBiase and Theodore Marvin DiBiase, Jr. *See* Order, ECF 27. The Court's Order stated that if the Government needed to have the case stayed again in order to protect its investigation, it could file a motion to do so.

In accordance with the local rules, the government attempted to confer with the counsel for Claimants, but counsel was not prepared to state its position on the motion at this time.

The Government respectfully requests the Court stay this civil forfeiture action.

RESPECTFULLY SUBMITTED on the 4th day of October 2022,

UNITED STATES OF AMERICA

DARREN J. LAMARCA
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¹ If the Court requires specific information as to how the continuation of the civil case would negatively impact the Government's criminal investigation, the Government respectfully requests it be allowed to file supplemental briefings, *ex-parte*, to this Court, as authorized by 18 U.S.C. § 981(g)(5).